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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,188	02/03/2001	Kelly L. Zimmerman		1487
7590	06/30/2005		EXAMINER	
SCOTT P. ZIMMERMAN PLLC P.O. BOX 3822 CARY, NC 27519			NGUYEN, CUONG H	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/776,188	ZIMMERMAN ET AL.
	Examiner CUONG H. NGUYEN	Art Unit 3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 6/17/05 (the RCE).
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 February 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of the claims

1. Claims 1-20 are pending from the RCE received on 6/17/2005.

Response

2. The examiner respectfully present a new ground of rejection(s) based on obviousness from currently amended claims.

On page 7 of the REMARKS (Jun. 17, 2005), the applicants argue that “*determining at the manufacturer that the diagnostic message represents an emergency, wherein the manufacturer contacts an emergency crew.*” This claimed situation is analogous to a well-known ADT security system when it detects an intrusion from a received message, and that local ADT office contacts a security officer for further investigation. Since above claimed feature is repeated in independent claims 1, 11, and 20 - these claims do not represent an inventive concept.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-2, 4-12, and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arjomand (US Pat. 5,884,202), in view of Tanielian et al. (US Pat. 6,134,485, and in view of Seeley et al. (US Pat. 6,097,429).

A. As to claims 11, and 18-19: Arjomand suggests a method of communicating a diagnostic message from a vehicle, comprising:

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- detecting the diagnostic message (see **Arjomand**, Fig.1, ref. 16, and 1:5-30);
- requesting to initiate a wireless communication in response to the diagnostic message (see **Arjomand**, Fig.1, ref. 16, col. 3 lines 22-46; and Fig.8, ref. 14); and communicating to obtain a diagnostic message (see **Arjomand**, the abstract, Fig.3, and Fig.8, ref. 50).

Arjomand does not disclose about receiving an electronic signal from an accelerometer via a control module.

However, Tanielian et al. teach about transmitting a signal about vehicle's acceleration after sensing it (see Tanielian et al., col. 5 lines 28-43).

Arjomand and Tanielian et al. do not disclose about transmitting a message to a manufacturer for determination if that is an emergency message, then contacting an emergency crew.

However, Seeley et al. teach about using an ADT security system to transmitting a message to a manufacturer (ADT company) for determination if that is an emergency situation, then contacting an emergency crew (i.e., a police department, or a fire department etc.); the claimed of contacting a dealer for service if there is an engine problem is old and well-known.

It would have been obvious to one of ordinary skill in the art at the time of invention to implement a combination of Arjomand, and Tanielian et al., with Seeley et al. in adding specific information about a vehicle's acceleration in communication messages from a vehicle to its manufacturer for a benefit of immediately having necessary response when diagnosing a performance of a vehicle remotely.

B. As to claim 1: It comprises similar limitations as claim 11; therefore, similar rationales and references set forth are applied for an obviousness rejection.

C. As to claim 2: Arjomand teaches a method of communicating a diagnostic message from a vehicle (see Arjomand, the abstract, and Fig.6).

Arjomand and Tanielian et al. do not disclose that wirelessly communication a message representing the vehicle's location to a vehicle's manufacturer.

However, Seeley et al. teach that local ADT company knows precisely a street address/location where that emergency message comes from for immediately response (see Seeley et al., the summary of the invention).

It would have been obvious to one of ordinary skill in the art to implement a combination of Arjomand, Tanielian et al., with Seeley et al. in adding specific information about a vehicle's location in a communication message as analogous to above ADT situation because artisan recognized that this extra information is clearly necessary in certain cases (e.g., for towing a disable vehicle).

D. As to claim 14: Arjomand teaches a method of communicating a diagnostic message from a vehicle, further comprising communicating with an occupant of the vehicle to schedule an appointment for service (see **Arjomand**, the abstract, Fig.6, ref. 12, and col. 1 lines 5-37). In summary, Arjomand teaches that communication step before bringing a vehicle for services; it is old and well known that a communication between a manufacturer/a dealer and whoever occupies that vehicle has been happening before this invention.

E. As to claims 5, 16: These claims comprise similar limitations as claim 14; therefore, similar rationales and references set forth are applied for an obviousness rejection.

F. As to claim 15: Arjomand teaches a method of communicating a diagnostic message from a vehicle (see **Arjomand**, the abstract, and Fig.6).

Arjomand also teaches about commanding a wireless communication representing a diagnostic message from an electrical/engine management system (see **Arjomand**, the abstract, Fig.8, ref. 16, and col. 1 lines 5-37). In another word, Arjomand teaches that claimed communication step using a user interface module (ref.12) and a VOM (ref.16), and that message/communication is received – this receiving step is analogous to a step of receiving diagnostic/monitoring signals by above ADT office.

G. As to claim 4: It comprises similar limitations as claim 15; therefore, similar rationale and references set forth are applied for an obviousness rejection.

H. As to claim 20: It comprises analogous limitations as a combination of claims 11 and 17 – further a message can comprise many different information which are belong to “non-functional descriptive material” that are not inventive different from prior art, including a collision; therefore, similar rationale and references set forth for a rejection of those claims are applied for a 35 USC 103(a) rejection of claim 20.

I. As per claims 6, 17, and 19: Arjomand teaches a method of communicating a diagnostic message from a vehicle, wherein initiating a wireless communication comprises commanding a device to transmit a wireless communication through a user interface module, and a main control module to i.e., “control and obtain data by wireless communication”, “executes diagnostic application programs and displays information to the user” (see **Arjomand**, the abstract, Figs.6, 8, and col. 1 lines 5-37).

Arjomand, Tanielian et al., do not disclose about a vehicle’s manufacturer communicates to an emergency crew.

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However, Seeley et al. analogously suggest that communication between an ADT company and a local police department to investigate an alarm.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Arjomand with Tanielian et al., Seeley et al., to relay a message from a vehicle's owner to an emergency crew via said vehicle manufacturer/dealer to make sure a vehicle's owner receive helps from a short notice.

J. As to claims 8-10: These claims comprise similar limitations as claim 17; therefore, similar rationales and references set forth are applied for 35 USC 103(a) rejections.

K. As per claim 18: It merely defines a message for an emergency condition, it is obvious to Arjomand's detecting a message that what contains in a message could be anything (good/bad) and considered as non-functional descriptive material; the specific contain of a message (good/bad) do not make the claim becomes inventive because it doesn't contribute to a different step of detecting/communicating a message.

L. As per claim 12:

Arjomand does not expressly disclose an occupant of the vehicle initiates a wireless communication.

However, the examiner respectfully submits that it is old for an occupant of the vehicle to initiate a communication when he is requested (e.g., if a cell-phone received a call (if a phone rings), a user to initiate an action of listening to that call by pressing a button.

It would have been obvious with one of ordinary skill in the art at the time of invention to implement Arjomand, Tanielian et al., and Seeley et al.'s teachings because it is efficient to initiating a communication whenever there is a need because this act only requires to press a

button. It also saves active energy by de-activating/putting in a sleep-mode (only activating when there is necessary).

4. Claims 3, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arjomand (US Pat. 5,884,202), in view of Tanielian et al. (US Pat. 6,134,485), in view of Seeley et al. (US Pat. 6,097,429), and further in view of Phillips et al. (US Pat. 6,351,221).

A. As to claim 13: As best understood, Arjomand teaches a method of communicating a diagnostic message from a vehicle.

Arjomand does not disclose about a manufacturer/dealer notifying that a diagnostic message has been communicated.

However, Phillips et al. teach about that limitation (see **Phillips et al., col.1 lines 28-55**).

It would have been obvious with one of ordinary skill in the art at the time of invention to combine Arjomand, Tanielian et al., Seeley et al., and Phillips et al., because they are all interactive communicating messages that required urgent concerns , and a motivation of Phillips et al. about notifying that a communication is already established would ensure that a diagnostic message is being transmitted and is received successfully.

B. As to claim 3: It comprises similar limitations as claim 13; therefore, similar rationale and references set forth are applied for a 35 USC 103(a) rejection.

Conclusion

5. Claims **1-20** are not patentable.

6. Note: **Takakura et al. (US Pat. 6,192,303)** also teach about wireless communications between a diagnosing unit and its host computer (see Takakura et al., col. 4 lines 36-44).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 703-305-4553. The examiner can normally be reached on 7am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 703-305-8233. The fax phone number for the organization where this application is assigned is 703-305-7687. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



cuonghnguyen

CUONG H. NGUYEN
Primary Examiner
Art Unit 3661